



The Commonwealth of Massachusetts  
Executive Office of Consumer Affairs

## Cable Television Commission

100 Cambridge Street, Suite 2003  
Boston, Massachusetts 02202



**William F. Weld**  
Governor

**(617) 727-6925**

**John D. Patrone**  
Commissioner

June 27, 1996

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20551

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*Re: Reply Comments, CS Docket No. 96-85*

Dear Sir or Madam:

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Enclosed please find the original and eleven copies of the Reply Comments of the Massachusetts Cable Television Commission in the above-referenced matter. Pursuant to paragraph 129 of the FCC's Order and Notice of Proposed Rulemaking, please forward the comments to each Commissioner.

Thank you for your attention to this matter.

Very truly yours,

**Helen Koroniades**  
Assistant General Counsel

cc: **Nancy Stevenson, Cable Services Bureau**  
**International Transcription Service**

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of )  
Implementation of Cable Act )  
Reform Provisions of the )  
Telecommunications Act of 1996 )  
\_\_\_\_\_

CS Docket No. 96-85

**REPLY COMMENTS OF THE  
MASSACHUSETTS CABLE TELEVISION COMMISSION\***

The Massachusetts Cable Television Commission ("the Massachusetts Commission")  
herein files reply comments in the above-referenced matter.

First, we reassert our position that Congress did not intend for the new fourth effective competition prong to have a percentage pass or penetration rate requirement. Comments submitted by virtually all commenters, cable and telephone companies alike, add weight to the

\* Formally, "Massachusetts Community Antenna Television Commission" under M.G.L. ch. 166A, § 2.

Massachusetts Commission's original comments to the effect that Congress did not intend to include a percentage pass or penetration rate in this section. If Congress had, it would have included it. In light of these comments, we urge the Commission to forego any effort to add, by regulation or rule, a percentage pass or penetration rate.

Second, the Telecommunications Act of 1996 ("the Act") allows a local franchising authority ("LFA") to file cable programming service ("CPS") rate complaints with the Commission once an LFA has received "subscriber complaints".<sup>1</sup> Unlike the penetration rate issue, Congress appears to have left the question of how "subscriber complaints" are defined open to determination by the FCC.<sup>2</sup> The interim rules state that the bare minimum "more than one" complaint should satisfy this provision.<sup>3</sup> Several commenters advised that this threshold is too low. We concur. Instead, we recommend that the Commission adopt one of two alternatives. First, the Commission could establish a higher threshold based on a minimum *percentage* of subscribers in a community. While we defer to the Commission's expertise regarding the exact percentage issue it should consider adopting, we believe something in the range of .001 percent of all franchise subscribers would be reasonable.<sup>4</sup> Raising this threshold would reduce administrative burdens on LFA's, cable operators and the Commission. Furthermore, it would ensure that scarce public resources need not be expended on rate complaints which are truly isolated in nature.

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<sup>1</sup> Telecommunications Act of 1996, Section 301(b)(1)(C).

<sup>2</sup> *Id.*

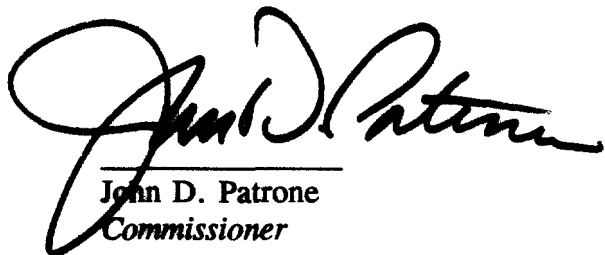
<sup>3</sup> FCC Order and Notice of Proposed Rulemaking, CS Docket No. 96-85 (released April 9, 1996), ¶ 21.

<sup>4</sup> Comments of the National Cable Television Association, Inc., p. 27.

complaints which are truly isolated in nature.

As an alternative, we recommend that the Commission allow LFA's the discretion to establish their own CPS rate complaint threshold, subject to a "reasonableness" standard of review by the Commission. Consistent with the Congressional intent under the 1996 Act, following LFA's the right to choose whether to file complaints with the Commission once the threshold is met, will allow local and state officials who are often best able to gauge the concerns of local complainants, the ability to have additional input on this issue.

Respectfully submitted,



John D. Patrone  
Commissioner